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REMARKS

The Examiner has indicated that the present application is in condition for allowance except for the following formal matters: if applicant intends to add Mr. Kuster, Jr. as an inventor under 35 U.S.C. 116, applicant must satisfy the requirements of 37 C.F.R. 1.48(a) which first includes a request to correct the inventorship that sets forth the desired inventorship change. If applicant decides not to add Mr. Kuster, Jr. as an inventor, the application can proceed to issue.

In response, applicant points out applicant's statement in the Reply dated December 03, 2004 that purports that "[a]pplicant does not believe that Mr. Kuster is a co-inventor of any of the pending claims and that this litigation-induced Affidavit does not have sufficient corroboration to warrant further consideration." Applicant continues to stand behind this statement, as further evidenced by the attached declaration, signed by inventor Douglas Frazier.

Thus, all of the independent claims are deemed allowable and in condition for allowance. In the event a telephone conversation would expedite the prosecution of this application, the Examiner may reach the undersigned at (408) 505-5100. The Commissioner is authorized to charge any additional fees or credit any overpayment to Deposit Account No. 50-1351 (Order No. EXP1P003).

Respectfully submitted,  
Zilka-Kotab, PC.

  
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